

IC 6-3.5-7

Chapter 7. County Economic Development Income Tax

IC 6-3.5-7-1

"Adjusted gross income" defined

Sec. 1. (a) Except as otherwise provided in this section, as used in this chapter, "adjusted gross income" has the meaning set forth in IC 6-3-1-3.5(a).

(b) In the case of a county taxpayer who is not a resident of a county that has imposed the county economic development income tax, the term "adjusted gross income" includes only adjusted gross income derived from the taxpayer's principal place of business or employment.

(c) In the case of a county taxpayer who is a resident of a county having a population of more than eighteen thousand three hundred (18,300) but less than nineteen thousand three hundred (19,300), the term "adjusted gross income" does not include adjusted gross income that is:

- (1) earned in a county that is:
 - (A) located in another state; and
 - (B) adjacent to the county in which the taxpayer resides; and
- (2) subject to an income tax imposed by a county, city, town, or other local governmental entity in the other state.

As added by P.L.380-1987(ss), SEC.6. Amended by P.L.66-1991, SEC.1; P.L.12-1992, SEC.29; P.L.170-2002, SEC.28.

IC 6-3.5-7-1.5

"Capital project" defined

Sec. 1.5. As used in this chapter, "capital project" includes substance removal or remedial action in a designated unit.

As added by P.L.44-1994, SEC.1.

IC 6-3.5-7-2

"County council" defined

Sec. 2. As used in this chapter, "county council" includes the city-county council of a consolidated city.

As added by P.L.380-1987(ss), SEC.6.

IC 6-3.5-7-3

"County taxpayer" defined

Sec. 3. As used in this chapter, "county taxpayer" as it relates to a county for a year means any individual who:

- (1) resides in that county on the date specified in section 17 of this chapter; or
- (2) maintains a principal place of business or employment in that county on the date specified in section 17 of this chapter and who does not on that same date reside in another county in which the county adjusted gross income tax, the county option income tax, or the county economic development income tax is in effect.

As added by P.L.380-1987(ss), SEC.6. Amended by P.L.22-1988, SEC.6.

IC 6-3.5-7-4

"Department" defined

Sec. 4. As used in the chapter, "department" refers to the department of state revenue.

As added by P.L.380-1987(ss), SEC.6.

IC 6-3.5-7-4.3

"Designated unit" defined

Sec. 4.3. As used in this chapter, "designated unit" refers to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000).

As added by P.L.44-1994, SEC.2. Amended by P.L.170-2002, SEC.29.

IC 6-3.5-7-4.6

"Remedial action" defined

Sec. 4.6. As used in this chapter, "remedial action" has the meaning set forth in IC 13-11-2-185.

As added by P.L.44-1994, SEC.3. Amended by P.L.1-1996, SEC.49.

IC 6-3.5-7-4.7

"Removal" defined

Sec. 4.7. As used in this chapter, "removal" has the meaning set forth in IC 13-11-2-187.

As added by P.L.44-1994, SEC.4. Amended by P.L.1-1996, SEC.50.

IC 6-3.5-7-4.8

"Substance" defined

Sec. 4.8. As used in this chapter, "substance" has the meaning set forth in IC 13-11-2-98 for "hazardous substance".

As added by P.L.44-1994, SEC.5. Amended by P.L.1-1996, SEC.51.

IC 6-3.5-7-5

Imposition of tax; procedures; rate of tax; ordinance; effective date; vote

Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

- (1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;
- (2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or
- (3) the county income tax council or the county council,

whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), (p), and (r) the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), or (p), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g) or (p), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

- (1) county economic development income tax may be imposed at a rate of:
 - (A) fifteen-hundredths percent (0.15%);
 - (B) two-tenths percent (0.2%); or

- (C) twenty-five hundredths percent (0.25%); and
- (2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

- (1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
- (2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

- (1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less

than two hundred thousand (200,000); or

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);

except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum

rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

- (1) the actual county economic development tax rate; and
- (2) the maximum rate that would otherwise apply under this section.

(r) This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

- (1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
- (2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.

(s) Except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.

As added by P.L.380-1987(ss), SEC.6. Amended by P.L.35-1990, SEC.20; P.L.28-1993, SEC.8; P.L.44-1994, SEC.6; P.L.99-1995, SEC.1; P.L.119-1998, SEC.11; P.L.135-2001, SEC.6; P.L.291-2001, SEC.179; P.L.185-2001, SEC.3; P.L.1-2002, SEC.34; P.L.178-2002, SEC.68; P.L.192-2002(ss), SEC.121; P.L.42-2003, SEC.5; P.L.224-2003, SEC.254; P.L.97-2004, SEC.31.

IC 6-3.5-7-6

Rate decrease or increase; limitations; ordinance; effective date; vote

Sec. 6. (a) The body imposing the tax may decrease or increase the county economic development income tax rate imposed upon the county taxpayers as long as the resulting rate does not exceed the rates specified in section 5(b) and 5(c) or 5(g) of this chapter. The rate imposed under this section must be adopted at one (1) of the rates specified in section 5(b) of this chapter. To decrease or increase the rate, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The _____ County _____ increases (decreases) the county economic development income tax rate imposed upon the county taxpayers of the county from _____ percent (____%) to _____ percent (____%). This tax rate increase (decrease) takes effect July 1 of this year."

(b) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(c) The auditor of a county shall record all votes taken on

ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

As added by P.L.380-1987(ss), SEC.6. Amended by P.L.35-1990, SEC.21; P.L.44-1994, SEC.7; P.L.99-1995, SEC.2; P.L.119-1998, SEC.12.

IC 6-3.5-7-7

Tax effective until rescission; rescinding ordinance; effective date; vote

Sec. 7. (a) The county economic development income tax imposed under this chapter remains in effect until rescinded.

(b) Subject to section 14 of this chapter, the body imposing the county economic development income tax may rescind the tax by adopting an ordinance to rescind the tax after January 1 but before April 1 of a year.

(c) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(d) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

As added by P.L.380-1987(ss), SEC.6. Amended by P.L.35-1990, SEC.22; P.L.28-1997, SEC.19.

IC 6-3.5-7-8

Tax effective for less than taxable year; calculation

Sec. 8. If the county economic development income tax is not in effect during a county taxpayer's entire taxable year, then the amount of county economic development income tax that the county taxpayer owes for that taxable year equals the product of:

(1) the amount of county economic development income tax the county taxpayer would owe if the tax had been imposed during the county taxpayer's entire taxable year; multiplied by

(2) a fraction. The numerator of the fraction equals the number of days during the county taxpayer's taxable year during which the county economic development income tax was in effect. The denominator of the fraction equals three hundred sixty-five (365).

As added by P.L.380-1987(ss), SEC.6.

IC 6-3.5-7-9

Credits for elderly or totally disabled; calculation

Sec. 9. (a) If for a taxable year a county taxpayer is (or a county taxpayer and a county taxpayer's spouse who file a joint return are) allowed a credit for the elderly or the totally disabled under Section 22 of the Internal Revenue Code, the county taxpayer is (or the county taxpayer and the county taxpayer's spouse are) entitled to a credit against the county taxpayer's (or the county taxpayer's and the county taxpayer's spouse's) county economic development income

tax liability for that same taxable year. The amount of the credit equals the lesser of:

(1) the product of:

(A) the county taxpayer's (or the county taxpayer's and the county taxpayer's spouse's) credit for the elderly or the totally disabled for that same taxable year; multiplied by

(B) a fraction. The numerator of the fraction is the county economic development income tax rate imposed against the county taxpayer (or against the county taxpayer and the county taxpayer's spouse). The denominator of the fraction is fifteen-hundredths (0.15); or

(2) the amount of county economic development income tax imposed on the county taxpayer (or the county taxpayer and the county taxpayer's spouse).

(b) If a county taxpayer and the county taxpayer's spouse file a joint return and are subject to different county economic development income tax rates for the same taxable year, they shall compute the credit under this section by using the formula provided by subsection (a), except that they shall use the average of the two (2) county economic development income tax rates imposed against them as the numerator referred to in subsection (a)(1)(B).

As added by P.L.380-1987(ss), SEC.6. Amended by P.L.63-1988, SEC.11.

IC 6-3.5-7-10

County economic development income tax special account

Sec. 10. (a) A special account within the state general fund shall be established for each county adopting the county economic development income tax. Any revenue derived from the imposition of the county economic development income tax by a county shall be credited to that county's account in the state general fund.

(b) Any income earned on money credited to an account under subsection (a) becomes a part of that account.

(c) Any revenue credited to an account established under subsection (a) at the end of a fiscal year may not be credited to any other account in the state general fund.

As added by P.L.380-1987(ss), SEC.6.

IC 6-3.5-7-10.5

Annual report to county auditor

Sec. 10.5. Before October 2 of each year, the department shall submit a report to each county auditor indicating the balance in the county's special account as of the cutoff date set by the budget agency.

As added by P.L.178-2002, SEC.69. Amended by P.L.267-2003, SEC.12.

IC 6-3.5-7-11

Calculation of certified distribution; notice to county auditor

Sec. 11. (a) Revenue derived from the imposition of the county

economic development income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the sum of the amount of county economic development income tax revenue that the department determines has been:

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county economic development income tax made in the state fiscal year plus the amount of interest in the county's account that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the county's certified distribution, which shall be distributed on the dates specified in section 16 of this chapter for the following calendar year. The amount certified shall be adjusted under subsections (c), (d), (e), (f), and (g). The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.

(c) The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) After reviewing the recommendation of the budget agency, the department shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 16(b) of this chapter.

(f) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the amount of any tax increase imposed under section 25 or 26 of this chapter to provide additional homestead credits as provided in those provisions.

(g) This subsection applies to a county that initially imposed a tax

under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (b)(1) through (b)(2) in the manner provided in subsection (c).

As added by P.L.380-1987(ss), SEC.6. Amended by P.L.267-2003, SEC.13.

IC 6-3.5-7-12

Certified distribution; amount; adoption of ordinance; exception; fractional amounts

Sec. 12. (a) Except as provided in sections 23, 25, 26, and 27 of this chapter, the county auditor shall distribute in the manner specified in this section the certified distribution to the county.

(b) Except as provided in subsections (c) and (h) and sections 15 and 25 of this chapter, the amount of the certified distribution that the county and each city or town in a county is entitled to receive during May and November of each year equals the product of the following:

(1) The amount of the certified distribution for that month; multiplied by

(2) A fraction. The numerator of the fraction equals the sum of the following:

(A) Total property taxes that are first due and payable to the county, city, or town during the calendar year in which the month falls; plus

(B) For a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

The denominator of the fraction equals the sum of the total property taxes that are first due and payable to the county and all cities and towns of the county during the calendar year in which the month falls, plus an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

(c) This subsection applies to a county council or county income tax council that imposes a tax under this chapter after June 1, 1992. The body imposing the tax may adopt an ordinance before July 1 of a year to provide for the distribution of certified distributions under this subsection instead of a distribution under subsection (b). The following apply if an ordinance is adopted under this subsection:

(1) The ordinance is effective January 1 of the following year.

(2) Except as provided in sections 25 and 26 of this chapter, the amount of the certified distribution that the county and each city and town in the county is entitled to receive during May and November of each year equals the product of:

(A) the amount of the certified distribution for the month;

multiplied by

(B) a fraction. For a city or town, the numerator of the fraction equals the population of the city or the town. For a county, the numerator of the fraction equals the population of the part of the county that is not located in a city or town. The denominator of the fraction equals the sum of the population of all cities and towns located in the county and the population of the part of the county that is not located in a city or town.

(3) The ordinance may be made irrevocable for the duration of specified lease rental or debt service payments.

(d) The body imposing the tax may not adopt an ordinance under subsection (c) if, before the adoption of the proposed ordinance, any of the following have pledged the county economic development income tax for any purpose permitted by IC 5-1-14 or any other statute:

(1) The county.

(2) A city or town in the county.

(3) A commission, a board, a department, or an authority that is authorized by statute to pledge the county economic development income tax.

(e) The department of local government finance shall provide each county auditor with the fractional amount of the certified distribution that the county and each city or town in the county is entitled to receive under this section.

(f) Money received by a county, city, or town under this section shall be deposited in the unit's economic development income tax fund.

(g) Except as provided in subsection (b)(2)(B), in determining the fractional amount of the certified distribution the county and its cities and towns are entitled to receive under subsection (b) during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property subject to assessment in that county.

(h) In a county having a consolidated city, only the consolidated city is entitled to the certified distribution, subject to the requirements of sections 15, 25, and 26 of this chapter.

As added by P.L.380-1987(ss), SEC.6. Amended by P.L.47-1992, SEC.1; P.L.28-1993, SEC.9; P.L.99-1995, SEC.3; P.L.124-1999, SEC.1; P.L.273-1999, SEC.74; P.L.14-2000, SEC.18; P.L.283-2001, SEC.6; P.L.90-2002, SEC.298; P.L.120-2002, SEC.6; P.L.192-2002(ss), SEC.122; P.L.224-2003, SEC.255; P.L.255-2003, SEC.6; P.L.97-2004, SEC.32.

IC 6-3.5-7-13 Repealed

(Repealed by P.L.1-1990, SEC.80.)

IC 6-3.5-7-13.1

Economic development income tax funds; deposits; uses

Sec. 13.1.(a) The fiscal officer of each county, city, or town for a

county in which the county economic development tax is imposed shall establish an economic development income tax fund. Except as provided in sections 23, 25, 26, and 27 of this chapter, the revenue received by a county, city, or town under this chapter shall be deposited in the unit's economic development income tax fund.

(b) Except as provided in sections 15, 23, 25, 26, and 27 of this chapter, revenues from the county economic development income tax may be used as follows:

(1) By a county, city, or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 21 of this chapter, or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) By a county, city, or town for:

(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects;

(F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or

(G) funding of a revolving fund established under IC 5-1-14-14.

(c) As used in this section, an economic development project is any project that:

(1) the county, city, or town determines will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the unit; or

(C) retain or expand a significant business enterprise within the unit; and

(2) involves an expenditure for:

(A) the acquisition of land;

(B) interests in land;
(C) site improvements;
(D) infrastructure improvements;
(E) buildings;
(F) structures;
(G) rehabilitation, renovation, and enlargement of buildings and structures;
(H) machinery;
(I) equipment;
(J) furnishings;
(K) facilities;
(L) administrative expenses associated with such a project, including contract payments authorized under subsection (b)(2)(D);
(M) operating expenses authorized under subsection (b)(2)(E); or
(N) to the extent not otherwise allowed under this chapter, substance removal or remedial action in a designated unit; or any combination of these.

As added by P.L.1-1990, SEC.81. Amended by P.L.17-1991, SEC.9; P.L.44-1994, SEC.8; P.L.27-1995, SEC.6; P.L.124-1999, SEC.2; P.L.192-2002(ss), SEC.123; P.L.224-2003, SEC.256.

IC 6-3.5-7-14

Bonds; debt service requirements; sale; covenant protecting bondholders

Sec. 14. (a) The fiscal body of a county, city, or town may issue bonds payable from the county economic development income tax. The bonds must be for economic development projects (as defined in section 13.1 of this chapter).

(b) The fiscal body of a county, city, or town may issue bonds payable from the county economic development income tax for any capital project for which the fiscal body is authorized to issue general obligation bonds. The bonds issued under this section may be payable from the county economic development income tax if the county option income tax or the county adjusted gross income tax is also in effect in the county at the time the bonds are issued.

(c) If there are bonds outstanding that have been issued under this section, or leases in effect under section 21 of this chapter, the body that imposed the county economic development income tax may not reduce the county economic development income tax rate below a rate that would produce one and twenty-five hundredths (1.25) times the total of the highest annual debt service on the bonds to their final maturity, plus the highest annual lease payments, unless:

(1) the body that imposed the economic development income tax; or

(2) any city, town, or county;

pledges all or a portion of its distributive share for the life of the bonds or the term of the lease, in an amount that is sufficient, when combined with the amount pledged by the city, town, or county that

issued the bonds, to produce one and twenty-five hundredths (1.25) times the total of the highest annual debt service plus the highest annual lease payments.

(d) For purposes of subsection (c), the determination of a tax rate sufficient to produce one and twenty-five hundredths (1.25) times the total of the highest annual debt service plus the highest annual lease payments shall be based on an average of the immediately preceding three (3) years tax collections, if the tax has been imposed for the last preceding three (3) years. If the tax has not been imposed for the last preceding three (3) years, the body that imposed the tax may not reduce the rate below a rate that would produce one and twenty-five hundredths (1.25) times the total of the highest annual debt service, plus the highest annual lease payments, based upon a study by a qualified public accountant or financial advisor.

(e) IC 6-1.1-20 does not apply to the issuance of bonds under this section.

(f) Bonds issued under this section may be sold at a public sale in accordance with IC 5-1-11 or may be sold at a negotiated sale.

(g) After a sale of bonds under this section, the county auditor shall prepare a debt service schedule for the bonds.

(h) The general assembly covenants that it will not repeal or amend this chapter in a manner that would adversely affect owners of outstanding bonds issued, or payment of any lease rentals due, under this section.

As added by P.L.380-1987(ss), SEC.6. Amended by P.L.2-1989, SEC.19; P.L.1-1990, SEC.82; P.L.19-1994, SEC.11.

IC 6-3.5-7-15

Capital improvement plan; retention of certified distribution pending adoption of plan; components of plan

Sec. 15. (a) The executive of a county, city, or town may, subject to the use of the certified distribution permitted under sections 25 and 26 of this chapter:

- (1) adopt a capital improvement plan specifying the uses of the revenues to be received under this chapter; or
- (2) designate the county or a city or town in the county as the recipient of all or a part of its share of the distribution.

(b) If a designation is made under subsection (a)(2), the county treasurer shall transfer the share or part of the share to the designated unit unless that unit does not have a capital improvement plan.

(c) A county, city, or town that fails to adopt a capital improvement plan may not receive:

- (1) its fractional amount of the certified distribution; or
- (2) any amount designated under subsection (a)(2);

for the year or years in which the unit does not have a plan. The county treasurer shall retain the certified distribution and any designated distribution for such a unit in a separate account until the unit adopts a plan. Interest on the separate account becomes part of the account. If a unit fails to adopt a plan for a period of three (3) years, then the balance in the separate account shall be distributed to

the other units in the county based on property taxes first due and payable to the units during the calendar year in which the three (3) year period expires.

(d) A capital improvement plan must include the following components:

(1) Identification and general description of each project that would be funded by the county economic development income tax.

(2) The estimated total cost of the project.

(3) Identification of all sources of funds expected to be used for each project.

(4) The planning, development, and construction schedule of each project.

(e) A capital improvement plan:

(1) must encompass a period of no less than two (2) years; and

(2) must incorporate projects the cost of which is at least seventy-five percent (75%) of the fractional amount certified distribution expected to be received by the county, city, or town in that period of time.

(f) In making a designation under subsection (a)(2), the executive must specify the purpose and duration of the designation. If the designation is made to provide for the payment of lease rentals or bond payments, the executive may specify that the designation and its duration are irrevocable.

As added by P.L.380-1987(ss), SEC.6. Amended by P.L.22-1988, SEC.8; P.L.17-1991, SEC.10; P.L.192-2002(ss), SEC.124; P.L.1-2003, SEC.45.

IC 6-3.5-7-16

Certified distribution dates; distribution by warrant

Sec. 16. (a) Except as provided in subsections (b) and (c), on May 1 of each year, one-half (1/2) of each county's certified distribution for a calendar year shall be distributed from its account established under section 10 of this chapter to the county treasurer. The other one-half (1/2) shall be distributed on November 1 of that calendar year.

(b) This subsection applies to a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Notwithstanding section 11 of this chapter, the initial certified distribution certified for a county under section 11 of this chapter shall be distributed to the county treasurer from the account established for the county under section 10 of this chapter according to the following schedule during the eighteen (18) month period beginning on July 1 of the year in which the county initially adopts an ordinance under section 2 of this chapter:

(1) One-fourth (1/4) on October 1 of the year in which the ordinance was adopted.

(2) One-fourth (1/4) on January 1 of the calendar year following the year in which the ordinance was adopted.

(3) One-fourth (1/4) on May 1 of the calendar year following the year in which the ordinance was adopted.

(4) One-fourth (1/4) on November 1 of the calendar year following the year in which the ordinance was adopted.

The county auditor and county treasurer shall distribute amounts received under this subsection to a county and each city or town in the county in the same proportions as are set forth in section 12 of this chapter. Certified distributions made to the county treasurer for calendar years following the eighteen (18) month period described in this subsection shall be made as provided in subsection (a).

(c) Before July 1 of each year, a county's certified distribution for additional homestead credits under section 25 or 26 of this chapter for the year shall be distributed from the county's account established under section 10 of this chapter.

(d) All distributions from an account established under section 10 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

As added by P.L.380-1987(ss), SEC.6. Amended by P.L.157-2002, SEC.3; P.L.192-2002(ss), SEC.125.

IC 6-3.5-7-17

Residence or principal place of business; determination

Sec. 17. (a) For purposes of this chapter, an individual shall be treated as a resident of the county in which the individual:

- (1) maintains a home if the individual maintains only one (1) home in Indiana;
- (2) if subdivision (1) does not apply, is registered to vote;
- (3) if subdivision (1) or (2) does not apply, registers the individual's personal automobile; or
- (4) if subdivision (1), (2), or (3) does not apply, spends the majority of the individual's time in Indiana during the taxable year in question.

(b) The residence or principal place of business or employment of an individual is to be determined on January 1 of the calendar year in which the individual's taxable year commences. If an individual changes location of residence or principal place of employment or business to another county in Indiana during a calendar year, the individual's liability for county economic development income tax is not affected.

(c) Notwithstanding subsection (b), if an individual becomes a county taxpayer for purposes of IC 36-7-27 during a calendar year because the individual:

- (1) changes the location of the individual's residence to a county in which the individual begins employment or business at a qualified economic development tax project (as defined in IC 36-7-27-9); or
- (2) changes the location of the individual's principal place of employment or business to a qualified economic development tax project and does not reside in another county in which the county economic development income tax is in effect;

the individual's adjusted gross income attributable to employment or business at the qualified economic development tax project is taxable only by the county containing the qualified economic development tax project.

As added by P.L.380-1987(ss), SEC.6. Amended by P.L.44-1994, SEC.9.

IC 6-3.5-7-17.3

Distribution of excess balance; use

Sec. 17.3. (a) If, after receiving a recommendation from the budget agency, the department determines that a sufficient balance exists in a county account in excess of the amount necessary, when added to other money that will be deposited in the account after the date of the recommendation, to make certified distributions to the county in the ensuing year, the department shall make a supplemental distribution to a county from the county's special account.

(b) A supplemental distribution described in subsection (a) must be:

- (1) made in January of the ensuing calendar year; and
- (2) allocated in the same manner as certified distributions for deposit in a civil unit's rainy day fund established under IC 36-1-8-5.1.

(c) A determination under this section must be made before October 2.

As added by P.L.178-2002, SEC.70. Amended by P.L.267-2003, SEC.14.

IC 6-3.5-7-18

Application of adjusted gross income tax law and other statutory provisions; withholdings report

Sec. 18. (a) Except as otherwise provided in this chapter, all provisions of the adjusted gross income tax law (IC 6-3) concerning:

- (1) definitions;
- (2) declarations of estimated tax;
- (3) filing of returns;
- (4) remittances;
- (5) incorporation of the provisions of the Internal Revenue Code;
- (6) penalties and interest;
- (7) exclusion of military pay credits for withholding; and
- (8) exemptions and deductions;

apply to the imposition, collection, and administration of the tax imposed by this chapter.

(b) The provisions of IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do not apply to the tax imposed by this chapter.

(c) Notwithstanding subsections (a) and (b), each employer shall report to the department the amount of withholdings attributable to each county. This report shall be submitted annually along with the employer's annual withholding report.

As added by P.L.380-1987(ss), SEC.6. Amended by P.L.57-1997, SEC.6.

IC 6-3.5-7-19

Repealed

(Repealed by P.L.267-2003, SEC.16.)

IC 6-3.5-7-20

Listed tax and income tax status for tax administration purposes

Sec. 20. The economic development income tax is a listed tax and an income tax for the purposes of IC 6-8.1.

As added by P.L.380-1987(ss), SEC.6.

IC 6-3.5-7-21

Leases; terms; public hearing; approval; execution; notice; action contesting validity; purchase of leased facility

Sec. 21. (a) A unit may enter into a lease with a leasing body (as defined in IC 5-1-1-1) of any property that could be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed fifty (50) years, and the lease may provide for payments from revenues under this chapter, any other revenue available to the unit, or any combination of these sources.

(b) A lease may provide that payments by the unit to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the unit for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the executive of the unit only after a public hearing at which all interested parties are provided the opportunity to be heard. After the public hearing, the executive may approve the execution of the lease on behalf of the unit if the executive finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of its residents. Any lease approved by the executive must also be approved by an ordinance of the fiscal body of the unit.

(d) Upon execution of a lease providing for payments by the unit in whole or in part from taxes under this chapter and upon approval of the lease by the unit's fiscal body, the executive of the unit shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1.

(e) Except as provided in this section, no approvals of any governmental body or agency are required before the unit enters into a lease under this section.

(f) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the publication of the notice of the execution and approval of the lease.

(g) If a unit exercises an option to buy a leased facility from a lessor, the unit may subsequently sell the leased facility, without

regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the executive of the unit through auction, appraisal, or arms length negotiation. If the facility is sold at auction, after appraisal, or through negotiation, the unit shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought within fifteen (15) days of the hearing.

As added by P.L.380-1987(ss), SEC.6. Amended by P.L.28-1993, SEC.10; P.L.99-1995, SEC.4.

IC 6-3.5-7-22

Substance removal and remedial action funds

Sec. 22. (a) This section only applies to a designated unit.

(b) The county income tax council may, by ordinance, determine that economic development income tax money is needed in the county to fund substance removal and remedial action, including the repayment of bonds or other debt incurred for substance removal or remedial action, and the actions taken to fund substance removal and remedial action serve a public purpose by promoting public health, welfare, and safety.

(c) If the county income tax council makes a determination under subsection (b), the county income tax council may adopt a tax rate under section 5(g) of this chapter. The tax rate may not be imposed at a rate or for a time greater than is necessary to fund substance removal and remedial action in the county, including the repayment of bonds or other debt incurred for substance removal or remedial action.

(d) The county treasurer shall establish a substance removal and remedial action fund to be used only for the purposes described in this section. County economic development income tax revenues derived from the tax rate imposed under section 5(g) of this chapter shall be deposited in the substance removal and remedial action fund before making a certified distribution under section 12 of this chapter.

(e) The county income tax council may, by ordinance, appropriate or pledge any part of the substance removal and remediation action fund to a political subdivision or to an entity formed by an interlocal cooperation agreement under IC 36-1-7 for the purposes set forth in this chapter in the county.

(f) The county auditor shall distribute the amount specified in the ordinance to the designated political subdivision or to an entity formed by an interlocal cooperation agreement under IC 36-1-7 from the substance removal and remedial action fund.

(g) Bonds issued by a political subdivision or an entity formed by an interlocal cooperation agreement under IC 36-1-7 payable from the substance removal and remedial action fund do not constitute debt of a designated unit or a city or town in the designated unit, and the bonds shall contain a statement on their face to that effect and to the effect that the bonds are payable solely from money in the

substance removal and remedial action fund, and other available funds, and are not supported by the full faith and credit of the county, city, or town.

As added by P.L.44-1994, SEC.10. Amended by P.L.99-1995, SEC.5.

IC 6-3.5-7-22.5

Additional rate in certain counties for hospital, county courthouse, and volunteer fire department

Sec. 22.5. (a) This section applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500).

(b) In addition to the rates permitted by section 5 of this chapter, the county council may impose the county economic development income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (c).

(c) In order to impose the county economic development income tax as provided in this section, the county council must adopt an ordinance finding and determining that revenues from the county economic development income tax are needed to pay the costs of:

(1) financing, constructing, acquiring, renovating, and equipping the county courthouse, and financing and renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions, including the repayment of bonds issued, or leases entered into for constructing, acquiring, renovating, and equipping the county courthouse and for renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions;

(2) financing constructing, acquiring, renovating, and equipping buildings for a volunteer fire department (as defined in IC 36-8-12-2) that provides services in any part of the county; and

(3) financing constructing, acquiring, and renovating firefighting apparatus or other related equipment for a volunteer fire department (as defined in IC 36-8-12-2) that provides services in any part of the county.

(d) If the county council makes a determination under subsection (c), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate or for a time greater than is necessary to pay for the purposes described in this section.

(e) The county treasurer shall establish a county option tax revenue fund to be used only for the purposes described in this section. County economic development income tax revenues derived from the tax rate imposed under this section shall be deposited in the county option tax revenue fund before making a certified distribution under section 11 of this chapter.

(f) County economic development income tax revenues derived from the tax rate imposed under this section:

- (1) may only be used for the purposes described in this section;
 - (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
 - (3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (c).
- (g) A county described in subsection (a) possesses:
- (1) unique fiscal challenges to finance the operations of county government due to the county's ongoing obligation to repay amounts received by the county due to an overpayment of the county's certified distribution under IC 6-3.5-1.1-9 for a prior year; and
 - (2) unique capital financing needs related to the purposes described in subsection (c).

As added by P.L.185-2001, SEC.4; P.L.291-2001, SEC.180 and P.L.291-2001, SEC.198. Amended by P.L.90-2002, SEC.299; P.L.224-2003, SEC.258; P.L.90-2004, SEC.3.

IC 6-3.5-7-23

Library property taxes; replacement credits

Sec. 23. (a) This section applies only to a county having a population of more than fifty-five thousand (55,000) but less than sixty-five thousand (65,000).

(b) The county council may by ordinance determine that, in order to promote the development of libraries in the county and thereby encourage economic development, it is necessary to use economic development income tax revenue to replace library property taxes in the county. However, a county council may adopt an ordinance under this subsection only if all territory in the county is included in a library district.

(c) If the county council makes a determination under subsection (b), the county council may designate the county economic development income tax revenue generated by the tax rate adopted under section 5 of this chapter, or revenue generated by a portion of the tax rate, as revenue that will be used to replace public library property taxes imposed by public libraries in the county. The county council may not designate for library property tax replacement purposes any county economic development income tax revenue that is generated by a tax rate of more than fifteen-hundredths percent (0.15%).

(d) The county treasurer shall establish a library property tax replacement fund to be used only for the purposes described in this section. County economic development income tax revenues derived from the portion of the tax rate designated for property tax replacement credits under subsection (c) shall be deposited in the library property tax replacement fund before certified distributions are made under section 12 of this chapter. Any interest earned on money in the library property tax replacement fund shall be credited to the library property tax replacement fund.

(e) The amount of county economic development income tax

revenue dedicated to providing library property tax replacement credits shall, in the manner prescribed in this section, be allocated to public libraries operating in the county and shall be used by those public libraries as property tax replacement credits. The amount of property tax replacement credits that each public library in the county is entitled to receive during a calendar year under this section equals the lesser of:

(1) the product of:

(A) the amount of revenue deposited by the county auditor in the library property tax replacement fund; multiplied by

(B) a fraction described as follows:

(i) The numerator of the fraction equals the sum of the total property taxes that would have been collected by the public library during the previous calendar year from taxpayers located within the library district if the property tax replacement under this section had not been in effect.

(ii) The denominator of the fraction equals the sum of the total property taxes that would have been collected during the previous year from taxpayers located within the county by all public libraries that are eligible to receive property tax replacement credits under this section if the property tax replacement under this section had not been in effect;

or

(2) the total property taxes that would otherwise be collected by the public library for the calendar year if the property tax replacement credit under this section were not in effect.

The department of local government finance shall make any adjustments necessary to account for the expansion of a library district. However, a public library is eligible to receive property tax replacement credits under this section only if it has entered into reciprocal borrowing agreements with all other public libraries in the county. If the total amount of county economic development income tax revenue deposited by the county auditor in the library property tax replacement fund for a calendar year exceeds the total property tax liability that would otherwise be imposed for public libraries in the county for the year, the excess shall remain in the library property tax replacement fund and shall be used for library property tax replacement purposes in the following calendar year.

(f) Notwithstanding subsection (e), if a public library did not impose a property tax levy during the previous calendar year, that public library is entitled to receive a part of the property tax replacement credits to be distributed for the calendar year. The amount of property tax replacement credits the public library is entitled to receive during the calendar year equals the product of:

(1) the amount of revenue deposited in the library property tax replacement fund; multiplied by

(2) a fraction. The numerator of the fraction equals the budget of the public library for that calendar year. The denominator of the fraction equals the aggregate budgets of public libraries in the county for that calendar year.

If for a calendar year a public library is allocated a part of the property tax replacement credits under this subsection, then the amount of property tax credits distributed to other public libraries in the county for the calendar year shall be reduced by the amount to be distributed as property tax replacement credits under this subsection. The department of local government finance shall make any adjustments required by this subsection and provide the adjustments to the county auditor.

(g) The department of local government finance shall inform the county auditor of the amount of property tax replacement credits that each public library in the county is entitled to receive under this section. The county auditor shall certify to each public library the amount of property tax replacement credits that the public library is entitled to receive during that calendar year. The county auditor shall also certify these amounts to the county treasurer.

(h) A public library receiving property tax replacement credits under this section shall allocate the credits among each fund for which a distinct property tax levy is imposed. The amount that must be allocated to each fund equals:

(1) the amount of property tax replacement credits provided to the public library under this section; multiplied by

(2) the amount determined in STEP THREE of the following formula:

STEP ONE: Determine the property taxes that would have been collected for each fund by the public library during the previous calendar year if the property tax replacement under this section had not been in effect.

STEP TWO: Determine the sum of the total property taxes that would have been collected for all funds by the public library during the previous calendar year if the property tax replacement under this section had not been in effect.

STEP THREE: Divide the STEP ONE amount by the STEP TWO amount.

However, if a public library did not impose a property tax levy during the previous calendar year or did not impose a property tax levy for a particular fund during the previous calendar year, but the public library is imposing a property tax levy in the current calendar year or is imposing a property tax levy for the particular fund in the current calendar year, the department of local government finance shall adjust the amount of property tax replacement credits allocated among the various funds of the public library and shall provide the adjustment to the county auditor. If a public library receiving property tax replacement credits under this section does not impose a property tax levy for a particular fund that is first due and payable in a calendar year in which the property tax replacement credits are being distributed, the public library is not required to allocate to that fund a part of the property tax replacement credits to be distributed to the public library. Notwithstanding IC 6-1.1-20-1.1(1), a public library that receives property tax replacement credits under this section is subject to the procedures for the issuance of bonds set forth

in IC 6-1.1-20.

(i) For each public library that receives property tax credits under this section, the department of local government finance shall certify to the county auditor the property tax rate applicable to each fund after the property tax replacement credits are allocated.

(j) A public library shall treat property tax replacement credits received during a particular calendar year under this section as a part of the public library's property tax levy for each fund for that same calendar year for purposes of fixing the public library's budget and for purposes of the property tax levy limits imposed by IC 6-1.1-18.5.

(k) The property tax replacement credits that are received under this section do not reduce the total county tax levy that is used to compute the state property tax replacement credit under IC 6-1.1-21. For the purpose of computing and distributing certified distributions under IC 6-3.5-1.1 and tax revenue under IC 6-5.5 or IC 6-6-5, the property tax replacement credits that are received under this section shall be treated as though they were property taxes that were due and payable during that same calendar year.

As added by P.L.124-1999, SEC.3. Amended by P.L.90-2002, SEC.300; P.L.87-2002, SEC.1; P.L.192-2002(ss), SEC.126.

IC 6-3.5-7-24

Additional rate for county jail facilities; fund; use of additional revenue

Sec. 24. (a) This section applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600).

(b) In addition to the rates permitted by section 5 of this chapter, the county council may impose the county economic development income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (c).

(c) In order to impose the county economic development income tax as provided in this section, the county council must adopt an ordinance finding and determining that revenues from the county economic development income tax are needed to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail including the repayment of bonds issued, or leases entered into, for constructing, acquiring, renovating, and equipping a county jail.

(d) If the county council makes a determination under subsection (c), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate or for a time greater than is necessary to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail.

(e) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County economic development income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 11

of this chapter.

(f) County economic development income tax revenues derived from the tax rate imposed under this section:

- (1) may only be used for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (c).

As added by P.L.178-2002, SEC.71.

IC 6-3.5-7-25

Additional uniformly applied or allocated homestead credit to offset countywide inventory tax deduction; replacement of lost revenue with tax; ordinances

Sec. 25. (a) This section applies only to a county that has adopted an ordinance under IC 6-1.1-12-41(f).

(b) For purposes of this section, "imposing entity" means the entity that adopted the ordinance under IC 6-1.1-12-41(f).

(c) The imposing entity may adopt an ordinance to provide for the use of the certified distribution described in section 16(c) of this chapter for the purpose provided in subsection (e). A county income tax council that adopts an ordinance under this subsection shall use the procedures set forth in IC 6-3.5-6 concerning the adoption of an ordinance for the imposition of the county option income tax. Except as provided in subsection (j), an ordinance must be adopted under this subsection after January 1 but before April 1 of a calendar year. The ordinance may provide for an additional rate under section 5(p) of this chapter. An ordinance adopted under this subsection:

- (1) first applies to the certified distribution described in section 16(c) of this chapter made in the calendar year that immediately succeeds the calendar year in which the ordinance is adopted;
- (2) must specify the calendar years to which the ordinance applies; and
- (3) must specify that the certified distribution must be used to provide for:
 - (A) uniformly applied increased homestead credits as provided in subsection (f); or
 - (B) allocated increased homestead credits as provided in subsection (h).

An ordinance adopted under this subsection may be combined with an ordinance adopted under section 26 of this chapter.

(d) If an ordinance is adopted under subsection (c), the percentage of the certified distribution specified in the ordinance for use for the purpose provided in subsection (e) shall be:

- (1) retained by the county auditor under subsection (g); and
- (2) used for the purpose provided in subsection (e) instead of the purposes specified in the capital improvement plans adopted under section 15 of this chapter.

(e) If an ordinance is adopted under subsection (c), the imposing

entity shall use the certified distribution described in section 16(c) of this chapter to increase the homestead credit allowed in the county under IC 6-1.1-20.9 for a year to offset the effect on homesteads in the county resulting from a county deduction for inventory under IC 6-1.1-12-41.

(f) If the imposing entity specifies the application of uniform increased homestead credits under subsection (c)(3)(A), the county auditor shall, for each calendar year in which an increased homestead credit percentage is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit percentage for the year;
- (2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and
- (3) the increased percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

(g) The increased percentage of homestead credit determined by the county auditor under subsection (f) applies uniformly in the county in the calendar year for which the increased percentage is determined.

(h) If the imposing entity specifies the application of allocated increased homestead credits under subsection (c)(3)(B), the county auditor shall, for each calendar year in which an increased homestead credit is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit for the year; and
- (2) an increased percentage of homestead credit for each taxing district in the county that allocates to the taxing district an amount of increased homestead credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-41 in the taxing district for the immediately preceding year's assessment date bears to the total inventory assessed value deducted under IC 6-1.1-12-41 in the county for the immediately preceding year's assessment date.

(i) The county auditor shall retain from the payments of the county's certified distribution an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. The money shall be distributed to the civil taxing units and school corporations of the county:

- (1) as if the money were from property tax collections; and
- (2) in such a manner that no civil taxing unit or school corporation will suffer a net revenue loss because of the allowance of an increased homestead credit.

(j) An entity authorized to adopt:

- (1) an ordinance under subsection (c); and
- (2) an ordinance under IC 6-1.1-12-41(f);

may consolidate the two (2) ordinances. The limitation under subsection (c) that an ordinance must be adopted after January 1 of

a calendar year does not apply if a consolidated ordinance is adopted under this subsection.

As added by P.L.192-2002(ss), SEC.127. Amended by P.L.272-2003, SEC.5.

IC 6-3.5-7-26

Additional uniformly applied or allocated homestead credit to offset statewide inventory tax deduction; replacement of lost revenue with tax; ordinance

Sec. 26. (a) This section applies only to homestead credits for property taxes first due and payable after calendar year 2006.

(b) For purposes of this section, "adopting entity" means:

(1) the entity that adopts an ordinance under IC 6-1.1-12-41(f);
or

(2) any other entity that may impose a county economic development income tax under section 5 of this chapter.

(c) An adopting entity may adopt an ordinance to provide for the use of the certified distribution described in section 16(c) of this chapter for the purpose provided in subsection (e). An adopting entity that adopts an ordinance under this subsection shall use the procedures set forth in IC 6-3.5-6 concerning the adoption of an ordinance for the imposition of the county option income tax. An ordinance must be adopted under this subsection after January 1 but before April 1 of a calendar year. The ordinance may provide for an additional rate under section 5(p) of this chapter. An ordinance adopted under this subsection:

(1) first applies to the certified distribution described in section 16(c) of this chapter made in the later of the calendar year that immediately succeeds the calendar year in which the ordinance is adopted or calendar year 2007; and

(2) must specify that the certified distribution must be used to provide for:

(A) uniformly applied increased homestead credits as provided in subsection (f); or

(B) allocated increased homestead credits as provided in subsection (h).

An ordinance adopted under this subsection may be combined with an ordinance adopted under section 25 of this chapter.

(d) If an ordinance is adopted under subsection (c), the percentage of the certified distribution specified in the ordinance for use for the purpose provided in subsection (e) shall be:

(1) retained by the county auditor under subsection (g); and

(2) used for the purpose provided in subsection (e) instead of the purposes specified in the capital improvement plans adopted under section 15 of this chapter.

(e) If an ordinance is adopted under subsection (c), the adopting entity shall use the certified distribution described in section 16(c) of this chapter to increase the homestead credit allowed in the county under IC 6-1.1-20.9 for a year to offset the effect on homesteads in the county resulting from the statewide deduction for inventory under

IC 6-1.1-12-42.

(f) If the imposing entity specifies the application of uniform increased homestead credits under subsection (c)(2)(A), the county auditor shall, for each calendar year in which an increased homestead credit percentage is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit percentage for the year;
- (2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and
- (3) the increased percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

(g) The increased percentage of homestead credit determined by the county auditor under subsection (f) applies uniformly in the county in the calendar year for which the increased percentage is determined.

(h) If the imposing entity specifies the application of allocated increased homestead credits under subsection (c)(2)(B), the county auditor shall, for each calendar year in which an increased homestead credit is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit for the year; and
- (2) an increased percentage of homestead credit for each taxing district in the county that allocates to the taxing district an amount of increased homestead credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-42 in the taxing district for the immediately preceding year's assessment date bears to the total inventory assessed value deducted under IC 6-1.1-12-42 in the county for the immediately preceding year's assessment date.

(i) The county auditor shall retain from the payments of the county's certified distribution an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. The money shall be distributed to the civil taxing units and school corporations of the county:

- (1) as if the money were from property tax collections; and
- (2) in such a manner that no civil taxing unit or school corporation will suffer a net revenue loss because of the allowance of an increased homestead credit.

As added by P.L.192-2002(ss), SEC.128. Amended by P.L.1-2003, SEC.46; P.L.272-2003, SEC.6; P.L.97-2004, SEC.33.

IC 6-3.5-7-27

Additional tax rate to finance courthouse; county facilities revenue fund; nonreverting fund for operating costs

Sec. 27. (a) This section applies to a county that:

- (1) operates a courthouse that is subject to an order that:
 - (A) is issued by a federal district court;

(B) applies to an action commenced before January 1, 2003;
and

(C) requires the county to comply with the federal Americans with Disabilities Act; and

(2) has insufficient revenues to finance the construction, acquisition, improvement, renovation, equipping, and operation of the courthouse facilities and related facilities.

(b) A county described in this section possesses unique fiscal challenges in financing, renovating, equipping, and operating the county courthouse facilities and related facilities because the county consistently has one of the highest unemployment rates in Indiana. Maintaining low property tax rates is essential to economic development in the county. The use of economic development income tax revenues under this section for the purposes described in subsection (c) promotes that purpose.

(c) In addition to actions authorized by section 5 of this chapter, a county council may, using the procedures set forth in this chapter, adopt an ordinance to impose an additional county economic development income tax on the adjusted gross income of county taxpayers. The ordinance imposing the additional tax must include a finding that revenues from additional tax are needed to pay the costs of:

(1) constructing, acquiring, improving, renovating, equipping, or operating the county courthouse or related facilities;

(2) repaying any bonds issued, or leases entered into, for constructing, acquiring, improving, renovating, equipping, or operating the county courthouse or related facilities; and

(3) economic development projects described in the county's capital improvement plan.

(d) The tax rate imposed under this section may not exceed twenty-five hundredths percent (0.25%).

(e) If the county council adopts an ordinance to impose an additional tax under this section, the county auditor shall immediately send a certified copy of the ordinance to the department by certified mail. The county treasurer shall establish a county facilities revenue fund to be used only for the purposes described in subsection (c)(1) and (c)(2). The amount of county economic development income tax revenues derived from the tax rate imposed under this section that are necessary to pay the costs described in subsection (c)(1) and (c)(2) shall be deposited into the county facilities revenue fund before a certified distribution is made under section 12 of this chapter. The remainder shall be deposited into the economic development income tax funds of the county's units.

(f) County economic development income tax revenues derived from the tax rate imposed under this section may not be used for purposes other than those described in this section.

(g) County economic development income tax revenues derived from the tax rate imposed under this section that are deposited into the county facilities revenue fund may not be considered by the department of local government finance in determining the county's

ad valorem property tax levy for an ensuing calendar year under IC 6-1.1-18.5.

(h) Notwithstanding section 5 of this chapter, an ordinance may be adopted under this section at any time. If the ordinance is adopted before June 1 of a year, a tax rate imposed under this section takes effect July 1 of that year. If the ordinance is adopted after May 31 of a year, a tax rate imposed under this section takes effect on the January 1 immediately following adoption of the ordinance.

(i) For a county adopting an ordinance before June 1 in a year, in determining the certified distribution under section 11 of this chapter for the calendar year beginning with the immediately following January 1 and each calendar year thereafter, the department shall take into account the certified ordinance mailed to the department under subsection (e). For a county adopting an ordinance after May 31, the department shall issue an initial or a revised certified distribution for the calendar year beginning with the immediately following January 1. Except for a county adopting an ordinance after May 31, a county's certified distribution shall be distributed on the dates specified under section 16 of this chapter. In the case of a county adopting an ordinance after May 31, the county, beginning with the calendar year beginning on the immediately following January 1, shall receive the entire certified distribution for the calendar year on November 1 of the year.

(j) Notwithstanding any other law, funds accumulated from the county economic development income tax imposed under this section and deposited into the county facilities revenue fund or any other revenues of the county may be deposited into a nonreverting fund of the county to be used for operating costs of the courthouse facilities, juvenile detention facilities, or related facilities. Amounts in the county nonreverting fund may not be used by the department of local government finance to reduce the county's ad valorem property tax levy for an ensuing calendar year under IC 6-1.1-18.5.

As added by P.L.224-2003, SEC.257. Amended by P.L.97-2004, SEC.34.